

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.316 of 2006.
IN
FIRST APPEAL NO. 1228 OF 1998.

Office notes, office
memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders.

Court's or Judge's orders.

Shri P.K.Dhakephalkar, Senior Advocate i/by
Vimal Tiwari for the Applicant.

Ms.Manota Sadh i/by M/s.Zohair & Co. for
Respondents Nos.1 and 2.

CORAM : ABHAY S.OKA, J.

DATED : 8th MARCH, 2006.

P.C.:

1. Heard the learned Senior Counsel appearing for the Applicant and the learned Counsel for the Respondent. This application for restoration of the first Appeal is vehemently opposed by the Counsel appearing for the Respondents by pointing out that there is a gross delay in applying for restoration.

2. Considering the averments made in the Application, a case for restoration is made out. However, the Respondents will have to be adequately compensated by ordering payment of costs.

3. Accordingly the Application is allowed in terms of prayer clauses (a) and (b), subject to condition that the Applicant will pay costs of Rs.7500/- to the Respondents within a period of four weeks from today. If the compliance is not made, the order of dismissal will stand.

4. The learned Counsel for Respondents Nos.1 and 2 waives service of notice in the First Appeal.

Judge.